

REMARKS

Claims 1, 3, 5 and 7-34 are pending. The Office Action rejects claims 1 and 5-12 under 35 U.S.C. §102(e); and rejects claims 2, 4, 6 and 13-34 under 35 U.S.C. §103(a). Applicants hereby amend claims 1, 8 and 9, and cancel claims 2, 4, 6 and 35-55. Support for the amendments can be found, for example, in the original claims as filed. No new matter is added. Rejection Under 35 U.S.C. §102(e)

The Office Action rejects claims 1 and 5-12 under 35 U.S.C. §102(e) as anticipated by Angelopoulos et al. (U.S. 6,858,357). The Office Action asserts that Angelopoulos discloses each feature of instant claims 1 and 5-12. Applicants incorporate the subject matter of claims 2 and 44 into each of claims 1 and 9, amend claim 8, cancel claims 2, 4 and 6, and respectfully traverse the rejection.

Instant independent claim 1, as amended, now recites "*each* phase shift;" "at least the step of forming *two or more* phase shift films on a substrate;" and "further, each phase shift film is formed by continuously discharging targets used for forming any one of the layers of the phase shift films without shutdown even when the other layers of the phase shift films are formed, and a composition ratio of metal and silicon in the phase shift film is changed by adjusting discharge powers applied to each target." Similar limitations appear in amended independent claim 9.

In contrast, Angelopoulos nowhere expressly or inherently discloses two or more such phase shift films formed in the above-described manner or having the above-described characteristics.

For at least the foregoing reasons, instant amended independent claims 1 and 9 are not anticipated by Angelopoulos. Due to their dependency, claims 5, 7, 8 and 10-12 are also not anticipated by Angelopoulos. Reconsideration and withdrawal of the rejection are earnestly solicited.

I. Claims Rejections Under 35 U.S.C. §103(a)

The Office Action rejects claims 2, 4, 6 and 13-34 under 35 U.S.C. §103(a) as unpatentable over Angelopoulos in view of Miyamura et al. (U.S. 6,635,155) and Mitsui et al. (U.S. 6,153,341). The Office Action asserts that Angelopoulos alone, as applied to claims 1 and 5-12 under the §102 rejection above, would have rendered obvious the features of instant claims 13-34. The Office Action appears to cite Miyamura and Mitsui only for allegedly having rendered obvious claims 2, 4 and 6. Applicants hereby amend independent claims 1 and 9, cancel claims 2, 4 and 6, and respectfully traverse the rejection.

Applicant cancels claims 2, 4 and 6; thus the rejection as to those claims is moot.

Instant independent claim 9, from which claims 10-25 depend, recites "two or more shift films," and "further, each phase shift film is formed by continuously discharging targets used for forming any one of the layers of the phase shift films without shutdown even when the other layers of the phase shift films are formed, and a composition ratio of metal and silicon in the phase shift film is changed by adjusting discharge powers applied to each target." Independent claim 1 includes similar limitations. As discussed above, Angelopoulos nowhere teaches or suggests these claimed features, nor is there any suggestion or motivation to modify Angelopoulos in order to obtain the claimed features. Further, neither Miyamura nor Mitsui remedy Angelopoulos' deficiencies.

Instant independent claim 26, from which claims 27-34 depend, recites "and a metal content in an outermost layer of the phase shift film in the multilayer phase shift film is 1/20–1/3 (molar ratio) of a metal content of a phase shift film which contains the most metal among the phase shift films in the multilayer phase shift film." This limitation imparts a significant reduction in the number of defects, (e.g., those caused by arc generation) during sputtering film formation. None of Angelopoulos, Miyamura or Mitsui teach or suggest, nor

would any combination of them have rendered obvious, this limitation. (For a further discussion of this benefit, see the specification, as filed, at pages 50-55.)

It would thus not have been obvious to modify Angelopoulos alone, or by either Miyamura or Mitsui, in order to obtain the claimed features because there is no suggestion or motivation to do so, and the claimed features would not have been obtained.

For at least the foregoing reasons, claims 2, 4 and 6 and 13-34 would not have been rendered obvious by any combination of Angelopoulos, Miyamura or Mitsui.

Reconsideration and withdrawal of the rejection are earnestly solicited.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 3, 5 and 7-34 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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